

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

JOSEPH DEBIASI, Individually )  
and on Behalf of All Others )  
Similarly Situated, )

Plaintiff, )

v. )

CARDINAL PIZZA, LLC, )

Defendant. )

Civil Action File No:  
5:22-cv-294-MTT

**MOTION FOR DEFAULT JUDGMENT**

Plaintiff Joseph DeBiasi (“Plaintiff”), by and through his attorney Josh Sanford of Sanford Law Firm, PLLC, for his Motion for Default Judgment (“Motion”), hereby states and alleges as follows:

1. Plaintiff Joseph DeBiasi seeks a default judgment against Defendant Cardinal Pizza, LLC (“Defendant”), in the amount of \$16,658.57, including \$8,329.29 in back pay plus attorney’s fees and costs. *See* Declaration of Joseph Debiasi, attached hereto as Exhibit 1.

2. Plaintiff seeks a default judgment against Defendant in the amount of \$5,713.94 for attorneys’ fees and costs. *See* Declaration of Josh Sanford, attached hereto as Exhibit 3.

3. Plaintiff filed his Original Complaint—Collective Action on August 10, 2022 (ECF No. 1) against Defendant Cardinal Pizza, LLC.

4. Plaintiffs served Defendant with the Complaint and Summons on September 16, 2022, as demonstrated by the Proof of Service herein. ECF No. 9.

5. Defendant's deadline for filing and serving an Answer or Motion to Dismiss was January 6, 2023, as fixed by the Court. EFC No. 13.

6. Defendant has not filed or served an Answer or Motion to Dismiss in accordance with Fed. R. Civ. P. 12(a)(1).

7. No extension for filing or serving a proper Answer or Motion to Dismiss has been granted.

8. Defendant Papa Texas, LLC is not a natural person; therefore Defendant is not in active military service, so 50 U.S.C. § 3931 is no bar to entry of a default judgment against either Defendant.

9. On January 31, 2023, this Court entered Default against Defendant.

10. Plaintiff is entitled to Judgment by default against Defendant based on the claims set forth in their Complaint, which alleged:

a. Defendant owns and operates Domino's franchises in Georgia ECF No. 1, at ¶ 11.

b. Defendant is a business subject to the FLSA because its annual gross volume of sales made or business done is at least \$500,000.00, and it has at least two

employees who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce. *Id.* at ¶¶ 12-13.

c. Defendant employed DeBiasi from July 2020 until December of 2020. *Id.* at ¶ 15.

d. Defendant determined the hours worked by Plaintiff, the manner in which he performed his job duties, and Plaintiff's schedule. *Id.* at ¶ 17.

e. Plaintiff worked "dual jobs." Specifically, he delivered food to Defendant's customers and receive tips, and he also worked inside the store completing nontipped duties. ECF No. 1, at ¶ 23.

f. Plaintiff was employed as an hourly-paid delivery driver, and Defendant classified Plaintiffs as nonexempt from the overtime requirements of the FLSA. *Id.* at ¶ 20.

g. Plaintiff was paid a rate at or close to minimum wage while performing duties in the store and paid less than minimum wage while making deliveries; in other words, Defendant took advantage of the "tip credit" provision of the FLSA, pursuant to 29 U.S.C. at § 203(m). *Id.* ¶ 25.

h. Throughout his employment, Plaintiff was required to maintain and pay for operable, safe, and legally complaint automobiles, and incur and/or pay job-related expenses that went unrecorded and unreimbursed. *Id.* at ¶¶ 27.

i. Defendant did not reimburse Plaintiff at the IRS standard business mileage rate, but rather reimbursed Plaintiff at a flat rate of \$1.50 per delivery unless two deliveries were made during the same trip, in which case, Defendant reimburses Plaintiff and other Delivery Drivers at a flat rate per delivery at \$2.00 per delivery. *Id.* at ¶¶ 33-35.

j. As a result of the flat rate per delivery reimbursement, Defendant has unreasonably underestimated Plaintiff's automobile expenses, causing systematic violations of the minimum wage laws. *Id.* at ¶ 33.

k. Defendant failed to pay Plaintiff a lawful minimum wage for all hours worked. *Id.* at ¶ 36.

l. Defendant willfully violated the provisions of 29 U.S.C. §§ 206 and 207, by employing employees engaged in commerce at an hourly rate less than the federal minimum wage and by failing to pay one and one-half (1.5) times regular wages for all hours worked over forty (40) in a week. *Id.* at ¶¶ 57-64, 65-71.

11. With this Motion, Plaintiffs submit the following exhibits: Declaration of Joseph DeBiasi (Exhibit 1) Damages Calculations (Exhibit 2), and Declaration of Josh Sanford (Exhibit 3). Plaintiffs also file herewith and incorporate herein a Brief in Support of Motion for Default Judgment.

WHEREFORE, premises considered, Plaintiff Joseph DeBiasi respectfully requests that this Court grant this Motion in full; find that Defendant violated the

provisions of the Fair Labor Standards Act as alleged in Plaintiff's Complaint; enter a default judgment against Defendant in the amount of \$16,658.57; award Plaintiff's counsel \$5,713.94 for attorney's fees and costs; and for all other good and proper relief to which Plaintiffs may be entitled, whether or not specifically requested herein.

Respectfully submitted,

**JOSEPH DEBIASI, Individually  
and on Behalf of All Others  
Similarly Situated, PLAINTIFF**

SANFORD LAW FIRM, PLLC  
Kirkpatrick Plaza  
10800 Financial Centre Pkwy, Suite 510  
Little Rock, Arkansas 72211  
Telephone: (800) 615-4946  
Facsimile: (888) 787-2040

s/ Josh Sanford  
Josh Sanford  
Ark. Bar No. 2020086  
[josh@sanfordlawfirm.com](mailto:josh@sanfordlawfirm.com)

**LEAD COUNSEL FOR PLAINTIFF**

DELONG, CALDWELL, BRIDGERS,  
FITZPATRICK & BENJAMIN  
101 Marietta Street, Suite 2650  
Atlanta, Georgia 30303  
Telephone: (404) 979-3150

s/ Matthew W. Herrington  
Matthew W. Herrington  
Ga. Bar No. 275411  
[matthew.herrington@dcbflegal.com](mailto:matthew.herrington@dcbflegal.com)

**LOCAL COUNSEL FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2023, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants, and by email and/or U.S. Mail if non-registrants:

Cardinal Pizza, LLC  
c/o Michael Hammons  
84146 Lola Dr.  
Diamondhead, Mississippi 39525

/s/ Josh Sanford  
**Josh Sanford**